

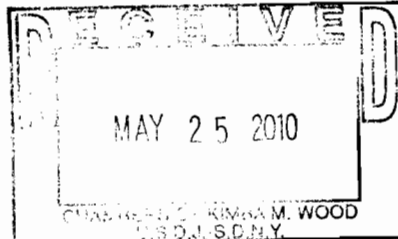
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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/1/10

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May 20, 2010

Hon. Kimba M. Wood
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: United States v. Kirk Lacey
09 Crim 507 (KMW)

Dear Judge Wood:

I have recently been informed by the CJA Clerk that the Second Circuit will not approve any vouchers seeking payment for work performed by my associates unless I first obtain permission from the District Court Judge handling the case to use my associates to assist me in representing the defendant. Accordingly, enclosed herein is an affidavit in support of my application for an order authorizing the use of my firm's associates, nunc pro tunc to the beginning of the case, to assist me in representing the defendant.

I have been a member of the CJA panel in the Southern and Eastern District since I left the U.S. Attorney's Office in 1991. During my entire tenure as a CJA attorney, I have routinely used associates to help me represent my court-appointed clients, just as I do on my retained cases. My associates enhance the quality of my representation because they enable my clients to get more personal attention for their cases than I could provide if I was required to do all of the work on every case alone. Until now, the Second Circuit has routinely approved the vouchers submitted for my associates' time even without prior authorization by the presiding District Court Judge.

Since 1996, when I started my own firm, I have always employed one or more associates. Currently, I employ two full time associates, Jonathan Konovich and Todd Parker, both of whom have years of experience and are highly skilled. They typically assist me by performing such

tasks as visiting clients who are incarcerated, drafting motions and sentencing letters and participating at hearings and trial, if necessary. I can say unequivocally, that the quality of legal service that my firm and I provide to my court-appointed clients would suffer greatly if I could not use my associates to help me provide proper representation.

In light of the above, it is respectfully requested that the Court authorize my use of my firm's associates on this matter, nunc pro tunc. Given the fact that my associates are full time employees of my firm and represent a substantial portion of my firm's overtime, it is further requested that the Court authorize them to bill at the hourly rate of \$110 for work done beginning January 1, 2010 (when the rates for members of the panel rose to \$125 per hour) and at the rate of \$100 per hour for work done prior to that time (when the rate for panel members was \$110 per hour).

Lastly, as we are a small firm in New York City, with significant overhead and monthly expenses, we respectfully request permission to submit interim vouchers in this case.

Thank you in advance for your consideration of this application.

*The Court needs an estimate
of the hours to be worked
by associates before
approving this request.*

Respectfully submitted,

Avraham C. Moskowitz
Avraham C. Moskowitz

SO ORDERED: N.Y., N.Y.
5/28/10

Kimba M. Wood

KIMBA M. WOOD
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

vs.

KIRK LACEY

Defendants.

09 CRIM 507 (KMW)

APPLICATION FOR USE OF
ASSOCIATE AND FOR ENHANCED
ASSOCIATE RATE

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

AVRAHAM C. MOSKOWITZ, being duly sworn, hereby deposes and says:

1. I am the attorney of record for KIRK LACEY, the defendant in the above-captioned case.
2. I have represented the defendant since July 14, 2009.
3. This application is respectfully submitted to request nunc pro tunc authorization for the use of my associates, Jonathan S. Konovitch and M. Todd Parker, who assisted me in representing the defendant in the above-captioned case.
4. This application is also submitted to seek an enhanced rate for my associates Jonathan S. Konovitch and M. Todd Parker, above the presumed rate of \$90 per hour.
5. Jonathan Konovitch, is the Senior Associate in my office. He has been a practicing attorney for 12 years, having worked in the Manhattan District Attorney's Office for close to 7 years as a felony prosecutor. He has handled upwards of 500 cases as a prosecutor and dozens more as a defense attorney. Jonathan has tried dozens of cases to verdict. He was a Fullbright Fellow and a graduate of Columbia University and Fordham University School of Law. He is a full time employee of our firm and as such is part of our small firm's substantial overhead. Jonathan is compensated by our firm based on his substantial experience, expertise and good judgment. He provides invaluable assistance on every CJA case on which he works because he enables my firm to spend more time serving the client,


and providing high quality legal representation, than I could do if I was handling the matter alone. In light of the above, I request that he be permitted to bill at an enhanced associate rate of \$110 per hour for his work on this matter since January 1, 2010 and at a rate of \$100 per hour for his time prior to that date.

6. M. Todd Parker is a former federal clerk having served as a clerk on both the appellate and district court levels. Mr. Parker is the former law clerk to Judge Garaufis in the Eastern District of New York and prior to that he was a Staff Attorney for two years for the Eighth Circuit Court of Appeals. Mr. Parker has a Masters Degree as well as Juris Doctor from Saint Louis University School of Law where he was on the Law Journal. He has been practicing law for five years and is a particularly gifted writer. He is a full-time employee of our firm and accordingly, his salary and benefits are a substantial portion of our firm's overhead. His skill and judgment, at a reduced rate for CJA work, are helpful both to our clients and our firm because he enables our firm to spend more time serving our clients and providing high-quality legal representation than would be possible if I were the only attorney working on the case. In light of the above, I request that he be permitted to bill at an enhanced associate rate of \$110 per hour for his work on this matter since January 1, 2010 and at a rate of \$100 per hour for his time prior to that date.


AVRAHAM C. MOSKOWITZ

Sworn to before me this

21 day of May 2010.



Philip A. Ponterio
Notary Public, State of New York
No. 01PO6175176
Qualified in Richmond County
Commission Expires October 9 2011